

by NAFTA members are appealed to ad hoc panels of private individuals, instead of impartial courts created under national constitutions. These panels are supposed to apply the same standard of review as a U.S. court in order to determine whether a decision is supported by substantial evidence on the agency record, and is otherwise in accordance with the law. This standard requires that the agency's factual findings and legal interpretations be given significant deference. Unfortunately, in spite of the panels' mandate, they all too often depart from their directive and fail to ensure that the correct standard of review is applied.

The Integrity of the U.S. Courts Act would permit any party to a NAFTA dispute involving a U.S. agency decision to remove appellate jurisdiction from the Extraordinary Challenge Committee, ECC, to the U.S. Court of International Trade. Doing so would resolve some of the constitutional issues raised by the Chapter 19 system, expedite resolution of cases, and ensure conformity with U.S. law.

The infirmities of Chapter 19 are real, and have been problematic from the beginning. The Justice Department, the Senate Finance Committee, and other authorities are on record of having expressed serious concern about giving private panelists, sometimes a majority of whom are foreign nationals, the authority to issue decisions about U.S. domestic law that have the binding force of law. These appointed panelists, coming from different legal and cultural disciplines and serving on an ad hoc basis, do not necessarily have the interest that unbiased U.S. courts have in maintaining the efficacy of the laws, as Congress wrote them.

One of the most egregious examples of the flaws of Chapter 19 is reflected in a case from early in this process, reviewing a countervailing duty finding that Canadian lumber imports benefit from enormous subsidies. Three Canadian panelists outvoted two leading U.S. legal experts to eliminate the countervailing duty based on patently erroneous interpretations of U.S. law—interpretations that Congress had expressly rejected only two months before. Two of the Canadian panelists served despite undisclosed conflicts of interest. The matter was then argued before a Chapter 19 appeals committee, and the two committee members outvoted the one U.S. member to once again insulate the Canadian subsidies from U.S. law.

The U.S. committee member was Malcolm Wilkey, the former Chief Judge of the federal Court of Appeals for the D.C. Circuit, and one of the United States' most distinguished jurists. In his opinion, Judge Wilkey wrote that the lumber panel decision "may violate more principles of appellate review of agency action than any opinion by a reviewing body which I have ever read." Judge Wilkey and former Judge Charles Renfrew, also a Chapter 19 appeals committee member,

have since expressed serious constitutional reservations about the system. While some have claimed that Chapter 19 decides many cases well, its inability to resolve appropriately large disputes, and its constitutional infirmity, demand a remedy.

It is clear that the time is long past due to remedy Chapter 19. From the outset, the NAFTA agreement contemplated that given the sensitive and unusual subject matter, signatories might have to alter their obligations under Chapter 19. The Integrity of the U.S. Courts Act is a reasonable solution to a serious problem.

I urge my colleagues to join Senators BAUCUS and COCHRAN and me in our effort to fix this problem that is unfairly harming American industry, and more important, the U.S. Constitution.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 1969. Mr. KOHL (for himself and Mr. COCHRAN) proposed an amendment to the bill H.R. 2330, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes.

SA 1970. Mr. KOHL (for himself and Mr. COCHRAN) proposed an amendment to the bill H.R. 2330, supra.

SA 1971. Mr. KOHL (for himself and Mr. COCHRAN) proposed an amendment to the bill H.R. 2330, supra.

SA 1972. Mr. KOHL (for himself and Mr. COCHRAN) proposed an amendment to the bill H.R. 2330, supra.

SA 1973. Mr. KOHL (for himself and Mr. COCHRAN) proposed an amendment to the bill H.R. 2330, supra.

SA 1974. Mr. KOHL (for himself and Mr. COCHRAN) proposed an amendment to the bill H.R. 2330, supra.

SA 1975. Mr. KOHL (for himself and Mr. COCHRAN) proposed an amendment to the bill H.R. 2330, supra.

SA 1976. Mr. SMITH, of Oregon (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill H.R. 2330, supra; which was ordered to lie on the table.

SA 1977. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill H.R. 2330, supra; which was ordered to lie on the table.

SA 1978. Mr. LEVIN (for himself, Ms. COLLINS, Ms. SNOWE, Mrs. CLINTON, Mrs. MURRAY, Mr. SCHUMER, Mr. LEAHY, Ms. STABENOW, Ms. CANTWELL, Mr. KENNEDY, Mr. JEFFORDS, Mr. KERRY, Mr. EDWARDS, and Mr. SMITH, of Oregon) submitted an amendment intended to be proposed by him to the bill H.R. 2330, supra.

SA 1979. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 2330, supra; which was ordered to lie on the table.

SA 1980. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2330, supra; which was ordered to lie on the table.

SA 1981. Mr. SMITH, of Oregon (for himself and Mr. WYDEN) proposed an amendment to the bill H.R. 2330, supra.

SA 1982. Mr. REED submitted an amendment intended to be proposed by him to the bill H.R. 2330, supra; which was ordered to lie on the table.

SA 1983. Mrs. CLINTON submitted an amendment intended to be proposed by her

to the bill H.R. 2330, supra; which was ordered to lie on the table.

SA 1984. Mr. HARKIN proposed an amendment to the bill H.R. 2330, supra.

SA 1985. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill H.R. 2330, supra; which was ordered to lie on the table.

SA 1986. Mr. STEVENS (for himself and Mr. HOLLINGS) submitted an amendment intended to be proposed by him to the bill H.R. 2330, supra; which was ordered to lie on the table.

SA 1987. Mr. NELSON, of Nebraska (for himself and Mr. MILLER) proposed an amendment to amendment SA 1984 proposed by Mr. HARKIN to the bill (H.R. 2330) supra.

SA 1988. Mr. KOHL (for Mr. DORGAN) proposed an amendment to the bill H.R. 2330, supra.

SA 1989. Mr. KOHL (for Mrs. LINCOLN) proposed an amendment to the bill H.R. 2330, supra.

SA 1990. Mr. KOHL (for Mr. JOHNSON) proposed an amendment to the bill H.R. 2330, supra.

SA 1991. Mr. KOHL (for Mr. WYDEN (for himself and Mr. CRAIG)) proposed an amendment to the bill H.R. 2330, supra.

SA 1992. Mr. COCHRAN (for Mr. STEVENS) proposed an amendment to the bill H.R. 2330, supra.

SA 1993. Mr. KOHL (for Ms. LANDRIEU) proposed an amendment to the bill H.R. 2330, supra.

SA 1994. Mr. KOHL (for Mr. HARKIN) proposed an amendment to the bill H.R. 2330, supra.

SA 1995. Mr. COCHRAN proposed an amendment to the bill H.R. 2330, supra.

SA 1996. Mr. KOHL proposed an amendment to the bill H.R. 2330, supra.

SA 1997. Mr. KOHL proposed an amendment to the bill H.R. 2330, supra.

SA 1998. Mr. KOHL (for Mr. BYRD) proposed an amendment to the bill H.R. 2330, supra.

SA 1999. Mr. COCHRAN (for Mr. STEVENS) proposed an amendment to the bill H.R. 2330, supra.

SA 2000. Mr. COCHRAN (for himself, Mrs. LINCOLN, Mr. SESSIONS, Mr. SHELBY, Mr. HUTCHINSON, and Mr. LOTT) proposed an amendment to the bill H.R. 2330, supra.

SA 2001. Mr. COCHRAN (for Mr. STEVENS) proposed an amendment to the bill H.R. 2330, supra.

SA 2002. Mr. COCHRAN (for Mr. CRAIG) proposed an amendment to the bill H.R. 2330, supra.

SA 2003. Mr. KOHL (for Mr. HARKIN) proposed an amendment to the bill H.R. 2330, supra.

SA 2004. Mr. COCHRAN (for Mr. MCCONNELL) proposed an amendment to the bill H.R. 2330, supra.

SA 2005. Mr. KOHL (for Mr. BREAUX) proposed an amendment to the bill H.R. 2330, supra.

SA 2006. Mr. KOHL (for Mr. SARBANES (for himself and Ms. MIKULSKI)) proposed an amendment to the bill H.R. 2330, supra.

SA 2007. Mr. KOHL (for Mr. GRAHAM (for himself and Mr. NELSON, of Florida)) proposed an amendment to the bill H.R. 2330, supra.

SA 2008. Mr. COCHRAN (for Mr. BUNNING) proposed an amendment to the bill H.R. 2330, supra.

SA 2009. Mr. COCHRAN (for Mr. STEVENS) proposed an amendment to the bill H.R. 2330, supra.

SA 2010. Mr. KOHL (for Mr. DORGAN) proposed an amendment to the bill H.R. 2330, supra.

SA 2011. Mr. COCHRAN proposed an amendment to the bill H.R. 2330, supra.

SA 2012. Mr. COCHRAN (for Mr. MCCONNELL) proposed an amendment to the bill H.R. 2330, supra.

SA 2013. Mr. KOHL (for Mr. HARKIN (for himself and Mr. HATCH)) proposed an amendment to the bill H.R. 2330, *supra*.

SA 2014. Mr. COCHRAN (for Mr. VOINOVICH) proposed an amendment to the bill H.R. 2330, *supra*.

SA 2015. Mr. COCHRAN (for Ms. COLLINS (for himself and Mr. NICKLES)) proposed an amendment to the bill H.R. 2330, *supra*.

SA 2016. Mr. KOHL (for Mr. REED) proposed an amendment to the bill H.R. 2330, *supra*.

## TEXT OF AMENDMENTS

**SA 1969.** Mr. KOHL (for himself and Mr. COCHRAN) proposed an amendment to the bill H.R. 2330, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes; as follows:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes, namely:

### TITLE I

#### AGRICULTURAL PROGRAMS

##### PRODUCTION, PROCESSING, AND MARKETING

###### OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of Agriculture, and not to exceed \$75,000 for employment under 5 U.S.C. 3109, \$2,992,000: *Provided*, That not to exceed \$11,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary: *Provided further*, That none of the funds appropriated or otherwise made available by this Act may be used to pay the salaries and expenses of personnel of the Department of Agriculture to carry out section 793(c)(1)(C) of Public Law 104-127: *Provided further*, That none of the funds made available by this Act may be used to enforce section 793(d) of Public Law 104-127.

##### EXECUTIVE OPERATIONS

###### CHIEF ECONOMIST

For necessary expenses of the Chief Economist, including economic analysis, risk assessment, cost-benefit analysis, energy and new uses, and the functions of the World Agricultural Outlook Board, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1622g), and including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed \$5,000 is for employment under 5 U.S.C. 3109, \$7,648,000.

##### NATIONAL APPEALS DIVISION

For necessary expenses of the National Appeals Division, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed \$25,000 is for employment under 5 U.S.C. 3109, \$12,766,000.

##### OFFICE OF BUDGET AND PROGRAM ANALYSIS

For necessary expenses of the Office of Budget and Program Analysis, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed \$5,000 is for employment under 5 U.S.C. 3109, \$6,978,000.

##### OFFICE OF THE CHIEF INFORMATION OFFICER

For necessary expenses of the Office of the Chief Information Officer, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C.

2225), of which not to exceed \$10,000 is for employment under 5 U.S.C. 3109, \$10,261,000.

##### COMMON COMPUTING ENVIRONMENT

For necessary expenses to acquire a Common Computing Environment for the Natural Resources Conservation Service, the Farm and Foreign Agricultural Service and Rural Development mission areas for information technology, systems, and services, \$59,369,000, to remain available until expended, for the capital asset acquisition of shared information technology systems, including services as authorized by 7 U.S.C. 6915-16 and 40 U.S.C. 1421-28: *Provided*, That obligation of these funds shall be consistent with the Department of Agriculture Service Center Modernization Plan of the county-based agencies, and shall be with the concurrence of the Department's Chief Information Officer.

##### OFFICE OF THE CHIEF FINANCIAL OFFICER

For necessary expenses of the Office of the Chief Financial Officer, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed \$10,000 is for employment under 5 U.S.C. 3109, \$5,335,000: *Provided*, That the Chief Financial Officer shall actively market and expand cross-servicing activities of the National Finance Center.

##### OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary salaries and expenses of the Office of the Assistant Secretary for Administration to carry out the programs funded by this Act, \$647,000.

##### AGRICULTURE BUILDINGS AND FACILITIES AND

###### RENTAL PAYMENTS

##### (INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92-313, including authorities pursuant to the 1984 delegation of authority from the Administrator of General Services to the Department of Agriculture under 40 U.S.C. 486, for programs and activities of the Department which are included in this Act, and for alterations and other actions needed for the Department and its agencies to consolidate unneeded space into configurations suitable for release to the Administrator of General Services, and for the operation, maintenance, improvement, and repair of Agriculture buildings, \$187,581,000, to remain available until expended: *Provided*, That in the event an agency within the Department should require modification of space needs, the Secretary of Agriculture may transfer a share of that agency's appropriation made available by this Act to this appropriation, or may transfer a share of this appropriation to that agency's appropriation, but such transfers shall not exceed 5 percent of the funds made available for space rental and related costs to or from this account.

##### HAZARDOUS MATERIALS MANAGEMENT

##### (INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Department of Agriculture, to comply with the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601 et seq., and the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq., \$15,665,000, to remain available until expended: *Provided*, That appropriations and funds available herein to the Department for Hazardous Materials Management may be transferred to any agency of the Department for its use in meeting all requirements pursuant to the above Acts on Federal and non-Federal lands.

##### DEPARTMENTAL ADMINISTRATION

##### (INCLUDING TRANSFERS OF FUNDS)

For Departmental Administration, \$37,079,000, to provide for necessary expenses

for management support services to offices of the Department and for general administration and disaster management of the Department, repairs and alterations, and other miscellaneous supplies and expenses not otherwise provided for and necessary for the practical and efficient work of the Department, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed \$10,000 is for employment under 5 U.S.C. 3109: *Provided*, That this appropriation shall be reimbursed from applicable appropriations in this Act for travel expenses incident to the holding of hearings as required by 5 U.S.C. 551-558.

##### OUTREACH FOR SOCIALLY DISADVANTAGED FARMERS

For grants and contracts pursuant to section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279), \$3,493,000, to remain available until expended.

##### OFFICE OF THE ASSISTANT SECRETARY FOR CONGRESSIONAL RELATIONS

##### (INCLUDING TRANSFERS OF FUNDS)

For necessary salaries and expenses of the Office of the Assistant Secretary for Congressional Relations to carry out the programs funded by this Act, including programs involving intergovernmental affairs and liaison within the executive branch, \$3,684,000: *Provided*, That these funds may be transferred to agencies of the Department of Agriculture funded by this Act to maintain personnel at the agency level: *Provided further*, That no other funds appropriated to the Department by this Act shall be available to the Department for support of activities of congressional relations.

##### OFFICE OF COMMUNICATIONS

For necessary expenses to carry on services relating to the coordination of programs involving public affairs, for the dissemination of agricultural information, and the coordination of information, work, and programs authorized by Congress in the Department, \$8,894,000, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed \$10,000 shall be available for employment under 5 U.S.C. 3109, and not to exceed \$2,000,000 may be used for farmers' bulletins.

##### OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and the Inspector General Act of 1978, \$70,839,000, including such sums as may be necessary for contracting and other arrangements with public agencies and private persons pursuant to section 6(a)(9) of the Inspector General Act of 1978, including not to exceed \$50,000 for employment under 5 U.S.C. 3109; and including not to exceed \$125,000 for certain confidential operational expenses, including the payment of informants, to be expended under the direction of the Inspector General pursuant to Public Law 95-452 and section 1337 of Public Law 97-98.

##### OFFICE OF THE GENERAL COUNSEL

For necessary expenses of the Office of the General Counsel, \$32,627,000.

##### OFFICE OF THE UNDER SECRETARY FOR RESEARCH, EDUCATION AND ECONOMICS

For necessary salaries and expenses of the Office of the Under Secretary for Research, Education and Economics to administer the laws enacted by the Congress for the Economic Research Service, the National Agricultural Statistics Service, the Agricultural Research Service, and the Cooperative State